



December 5, 2001

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2001-5649

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 155646.

The Department of Public Safety (the "department") received a request for information regarding a particular traffic accident. You state that you will make some of the responsive information available to the requestor. You claim, however, that the submitted information is excepted from disclosure under sections 411.083 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

The submitted information contains information governed by sections 521.045 and 601.022 of the Transportation Code.¹ Section 521.045 provides:

On receipt of a written request and payment of a \$4 fee, the department may disclose information relating to an individual's date of birth, current license status, and most recent address, as shown in the department's records, to a person who:

- (1) is eligible to receive the information under Chapter 730; and
- (2) submits to the department the individual's driver's license number or the individual's full name and date of birth.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Transp. Code § 521.045. Section 601.022(a) states that the department “shall provide any person a certified abstract of the record of conviction of a person subject to this chapter for violation of a law relating to the operation of a motor vehicle or the record of any injury or damage caused by the person’s operation of a motor vehicle if the requestor is eligible to receive the information under Chapter 730.” *Id.* § 601.022(a). Section 730.007 of the Transportation Code enumerates the requestors who are eligible to receive information from the department. The requestor here is not one of the persons listed in section 730.007. Thus, the department must withhold the information in Exhibit A pursuant to sections 521.045 and 601.022 of the Transportation Code.²

This office recently issued Open Records Letter No. 2001-2047 (2001), which serves as a previous determination under section 552.301(a) of the Government Code for the department with respect to criminal history record information (“CHRI”), as defined in section 411.082 of the Government Code and as maintained by the Department of Public Safety under section 411.083 of the Government Code. Therefore, pursuant to that previous determination, you must withhold the CHRI submitted as Exhibit B. Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, fact, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests).

To summarize, we conclude that: (1) the department must withhold the information in Exhibit A pursuant to sections 521.045 and 601.022 of the Transportation Code; and (2) the department must withhold the information in Exhibit B pursuant to Open Records Letter No. 2001-2047 (2001).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

²As we are able to make this determination, we need not address your argument under section 552.130 of the Government Code.

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Karen A. Eckerle
Assistant Attorney General
Open Records Division

KAE/sdk

Ref: ID# 155646

Enc: Submitted documents

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